

MINUTES
CHIROPRACTIC PHYSICIANS LICENSING BOARD

OCTOBER 27, 2020 • 10:00 A.M

Electronic Meeting

Convened: 9:08 a.m.

Adjourned: 11:57 a.m.

DOPL STAFF PRESENT:

Mark Steinagel, Division Director
Allyson Pettley, Bureau Manager
Ernest Gamonal, Board Secretary

Sicily Hill, Compliance Specialist
Dan Briggs, Investigation Supervisor
Carolyn Dennis, Management Analyst

BOARD MEMBERS PRESENT:

Terry Martin, DC, Chair
Richard Engar, DDS
Dan S. Monson, DC

Kristina Stitcher, DC, Vice Chair
Larry Vance, DC (joined at 00:06:00)

GUESTS:

Roxy Cross, UCPA

Jeffery Metler

Derek Brown

ADMINISTRATIVE BUSINESS:

Election of Board Chair and Vice Chair (00:03:10)

Dr. Engar moved to reappoint Dr. Martin as the Board Chair and Dr. Stitcher as the Vice-Chair through the end of the year and Dr. Monson seconded. The motion passed unanimously.

Read and Approve Minutes from July 28, 2020(00:04:23)

Dr. Stitcher moved to amend and approve the minutes from the July 28, 2020 meeting, Dr. Engar seconded. The motion passed unanimously.

COMPLIANCE UPDATE: (00:39:55)

Ms. Hill provided a report on the probationers being seen today. Questions were asked and answered.

APPOINTMENTS:

Anthony John Simone, DC (00:45:35)

Dr. Vance interviewed Dr. Simone. Dr. Simone told the Board that things are going well for him, but, it has been tough like it has been for everyone. Dr. Simone is taking the Ethics and Boundaries Assessment Services (EBAS) in sections. Dr. Simone was promoted and is now the Director of Clinic. He was also recognized as Chiropractic Physician of the Year for the United States for his company. Dr. Simone will come before the Board on January 26, 2021.

COMPLIANT

John Krage, DC (00:51:30)

Dr. Monson interviewed Dr. Krage. Dr. Krage is working and seeing about five or six patients per day. He is working on his continuing education (CE) credits. Dr. Krage has an upcoming patient appointment in Utah, his first in six months. Dr. Krage will come before the Board on January 26, 2021.

COMPLIANT

Troy Graf, DC (01:14:30)

Dr. Engar interviewed Dr. Graf. Dr. Graf told the Board that he removed several items from his websites. He has a list of all of the websites he has currently operating. Dr. Graf has not sold any medical devices. Dr. Graf is seeing between 6 and 15 patients per day. He is primarily marketing through word of mouth. Dr. Stitche told the Board that she looked at his website and she thinks it is much better. He will come before the Board on January 26, 2021.

COMPLIANT

Kent Pollock, DC (02:58:30)

Dr. Stitche interviewed Dr. Pollock. He is working two days per week and working between eight and ten hours per week. Dr. Pollock is seeing people between 12-15 patients per week. He is trying to develop his own patient base.

Dr. Pollock received a negative supervisor report. He told the Board that he had been counseled by his employer and has corrected his behavior. Ms. Pettley asked Dr. Pollock to explain the supervisor's claim that Dr. Pollock was viewing illicit material on the internet while at work. Ms. Pettley suggested that the Board may like to have Dr. Pollock's supervisor explain the supervisor report at the next meeting. Dr. Pollock denied that the information he had viewed on the office computer as pornographic.

Dr. Pollock told the Board that he is not compensated for seeing patients. Dr. Martin noted that there is nowhere in Dr. Pollock's stipulation that says he cannot earn income while on probation. He suggested Dr. Pollock discuss income with his employers. Dr. Monson asked about Dr. Pollock's compensation.

The Board asked Ms. Hill to follow up with Dr. Pollock's supervisors regarding the internet videos and the compensation for Dr. Pollock.

Dr. Pollock has completed all of his probationer CEs. And is just short of his regular CE requirements. Dr. Pollock will come before the Board on January 26, 2021.

NON-COMPLIANT

APPLICATION REVIEW:

Ms. Pettley gave a brief summary regarding the application review on the Agenda. (57:55)

Mr. Briggs provided information regarding the review for Dr. Meadors (1:22:20)

10:45 a.m. Brandon Hatch (01:32:55)

Ms. Pettley provided a brief review of Brandon Hatch's previous license history. Questions were asked and answered. Brandon Hatch provided clarification to questions from the Board.

Dr. Engar moved to issue a conditional license with an educational interview for the October 2021 meeting and Dr. Stitcher seconded. The motion passed unanimously.

The Board recessed for a break at 11:05 AM. The Board reconvened at 11:14 a.m. (01:55:15)

11:15 a.m. John Meadors (01:56:00)

Ms. Pettley provided a brief review of John Meadors 's previous license history. Questions were asked and answered. Mr. Meadors provided clarification to questions from the Board.

Dr. Stitcher moved to require Mr. Meadors obtain a psychological evaluation, pass the Special Purposes Examination for Chiropractic (SPEC), and complete the EBAS before the Board considers the relicensing of Mr. Meadors and Dr. Engar seconded. The Board had no additional discussion. The motion passed unanimously.

Ms. Pettley explained the next steps to Mr. Meadors.

11:45 a.m. Donald Miller (02:35:35)

Ms. Pettley provided a brief review of Donald Miller's previous license history. Questions were asked and answered. Mr. Miller provided clarification to questions from the Board.

Dr. Engar moved to issue a conditional license with an educational interview for the October 2021 meeting and Dr. Vance seconded. The motion passed unanimously.

DISCUSSION ITEMS:

Chiropractic Physician Practice Act Rule Review (00:05:25)

Division Director Steinagel led the discussion. He explained the rule writing process and what happened with the last rule amendment put forward by the Board. Director Steinagel told the Board that he received 81 comments regarding the rule amendment. Of those, 54 comments were in support, 23 were opposed, and four were neutral to the rule amendment. Director Steinagel said that there were close to equal numbers of substantive comments in support and opposition to the amendment. He said that this is an important issue that many people care about.

Director Steinagel acknowledged that a lot of work had already been done; however, after reviewing the comments, he determined that more work needs to be done. He would like to have some additional discussions in the coming weeks to work on the issue to get it right.

Jeff Metler, counsel for the Utah Chiropractic Physicians Association (UCPA), told the Board that he appreciates the measured and thoughtful approach the Division is taking. He

mentioned that the Utah False Claims Act, prohibits any doctors who accept Medicare or Medicaid from taking any type kickbacks and the actions being taken by the Utah Supreme Court regarding governing attorneys, doesn't apply. The Utah Supreme Court, on August 14, released standing order number 15 allowing attorneys to pay for referrals. Within 2 weeks, he continued, doctors across the state received letters that solicited referrals for lawsuits. On Friday, August 28, 2020 Mr. Metler's office issued letter to the Utah State Bar, requesting official ethics opinion. On the following Monday, the Court revised its opinion and removed the ability to pay for referrals. Currently, the practice of paying for referrals has been moved into a "sandbox" provision. Mr. Metler would like to see a path forward that takes care of bad actors who harm patients.

Director Steinagel and Dr. Martin discussed the creation of an ad-hoc committee. Dr. Stitcher and Dr. Vance volunteered to serve on the ad-hoc committee. Ms. Pettley suggested Mr. Metler and Derek Brown, lobbyist, to join the Board members, Director Steinagel and herself on the ad-hoc committee to discuss the issue.

The committee will try to meet in two weeks and will report back to the Board at the January 26, 2021 Board meeting.

Ms. Pettley reminded the Board that the current rule filing will expire on Thursday so any changes will need to be refiled. Ms. Pettley told the Board how the laws and rules are currently applied. Dr. Stitcher agreed, unless there is a change in the law the Division must apply it written.

Available Testing during the Pandemic – Practical Part IV (00:28:00)

Dr. Stitcher told the Board that the NBCE held the Part IV examination in mid-September after delaying it twice. Dr. Stitcher said there were several graduates who were in a six month delay in testing and no option for licensing in their state. Dr. Stitcher has enjoyed being an examiner.

Dr. Martin asked what the Division would do if the examinations continued to be canceled. Ms. Pettley said that the Division may consider temporary license. Dr. Wheelright suggested that the schools may help students with preceptor or postceptor programs.

Licensing by Endorsement (03:12:00)

Ms. Dennis reminded the Board about Senate Bill 23, from the 2020 legislative session and the changes it has made to the licensing by endorsement provisions. Dr. Martin reviewed all 50 states and he believes that the current requirements may need to be rewritten because of the statutory inclusion of the SPEC. Dr. Stitcher asked that each applicant be required to complete the Utah Law and Rule examination.

Dr. Stitcher moved to accept all of the jurisdictions for endorsement, requiring the Utah Law and Rule, except for the North Mariana Islands and Dr. Vance seconded. The motion passed unanimously.

TENTATIVE MEETING DATES

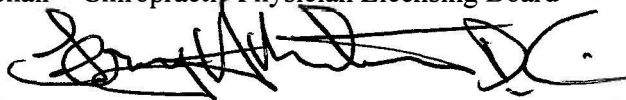
January 26, 2021
April 27, 2021
July 27, 2021
October 26, 2021

ADJOURN: 12:43 p.m. (no motion required)

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessary shown in the chronological order they occurred.

Date Approved Board Chair – Chiropractic Physician Licensing Board

1.26.2021



Date Approved Bureau Manager – Division of Occupational & Professional Licensing

January 26, 2021

